

RULE

Department of Health Bureau of Health Services Financing

Forensic Supervised Transitional Residential and Aftercare Facilities Licensing Standards (LAC 48:I.Chapter 72)

The Department of Health, Bureau of Health Services Financing has repealed and replaced LAC 48:I.Chapter 72 in the Medical Assistance Program as authorized by R.S.36:254 and R.S. 28:31-28:37. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part 1. General Administration

Subpart 3. Licensing and Certification

Chapter 72. Forensic Supervised Transitional Residential and Aftercare Facilities Licensing Standards

Subchapter A. General Provisions

§7201. Introduction

A. These rules and regulations contain the minimum licensure standards for forensic supervised transitional residential and aftercare (FSTRA) facilities, pursuant to R.S. 28:31-28:37. These licensing regulations contain core requirements as well as module specific requirements, depending upon the services provided by the forensic supervised transitional residential and aftercare facility. The modules to be licensed under a FSTRA license are:

1. secure community supervised transitional/residential facility; and
2. secure forensic facility.

B. A forensic supervised transitional residential and aftercare facility serves clients referred by state forensic hospitals or state forensic inpatient psychiatric units operated by the Department of Health, including persons who are court ordered and persons who are on court ordered conditional release status. A FSTRA facility shall operate 7 days per week, 24 hours a day.

C. The care and services to be provided through arrangement or by the facility shall include, but are not limited to, the following:

1. behavioral health services;
2. nutritional services;
3. medication management;
4. assistance with independent living skills;
5. recreational services; and
6. transportation services.

D. Key administrative personnel shall include the administrator, physician/psychiatrist and the registered nurse supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:51 (January 2017).

§7203. Definitions

Activities of Daily Living (ADLs)—the functions or tasks which are performed by an individual in a typical day, either independently or with supervision/assistance. Activities of daily living may include, but are not limited to, bathing, dressing, eating, grooming, walking, transferring and/or toileting.

Administrator—the person responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

Assistance with Activities of Daily Living—services that provide assistance with activities of daily living. Such assistance may be the actual performance of the task for the individual, or may provide hands-on assist with the performance of the tasks, or may be supervision and prompting to allow the individual to self-perform such tasks.

Behavior Management—techniques, measures, interventions and procedures applied in a systematic fashion to promote positive behavioral or functional change which fosters the client's self-control, and to prevent or interrupt a client's behavior which threatens harm to the client or others.

Cessation of Business—FSTRA is non-operational and/or has stopped offering or providing services to the community.

Department—the Louisiana Department of Health (LDH).

Division of Administrative Law (DAL)—the administrative law tribunal authorized by law to hear and decide the administrative appeals for the department.

Forensic Clients—persons transitioned from a forensic facility established pursuant to R.S. 28:25.1(A) or (B).

Forensic Psychiatrist—a physician, currently licensed to practice medicine in Louisiana, who:

1. signs the order admitting the individual to the FSTRA facility;
2. maintains overall responsibility for the client's medical management; and
3. is readily available for consultation and collaboration with the FSTRA facility staff.

Forensic Supervised Transitional Residential and Aftercare Facility—a facility that provides supervised transitional residential and aftercare services to

forensic clients, including persons who are court ordered or who are on court ordered conditional release status. A forensic supervised transitional residential and aftercare facility shall provide clients, referred by state operated forensic facilities/hospitals and under court order or court ordered forensic conditional release, with individualized services to develop daily living skills and to prepare for vocational adjustment and reentry into the community.

Health Standards Section (HSS)—the licensing and certification section of the Louisiana Department of Health.

Instrumental Activities of Daily Living (IADLs)—the functions or tasks that are not necessary for fundamental functioning but assist an individual to be able to live in a community setting. These are activities such as light house-keeping, food preparation and storage, grocery shopping, laundry, reminders to take medication, scheduling medical appointments, arranging transportation to medical appointments and accompanying the client to medical appointments.

Licensee—the person, partnership, company, corporation, association, organization, professional entity or other entity to whom a license is granted by the licensing agency and upon whom rests the ultimate responsibility and authority for the conduct of and services provided by the FSTRA facility.

Non-Operational—the FSTRA facility is not open for continuous business operation 24 hours a day, 7 days per week as stated on the licensing application and business location signage.

Secure Community Supervised Transitional/Residential Facility—a secure residential facility within the community that provides individualized services to persons who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit. These services enable such persons to develop daily living skills and to prepare for vocational adjustment and reentry into the community.

Secure Forensic Facility—a secure residential facility located on the grounds of a state owned/operated hospital that provides individualized services, including personal care services and medication administration, to persons who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit. These services prepare such persons for transition to a less restrictive environment before transitioning to the community.

Therapeutic—process of intervention, in accordance with the treatment plan, that has the desirable effect of modifying or redirecting a client's

behavior and/or emotional state in a positive or beneficial manner.

Treatment Plan—a comprehensive plan developed by the facility for each client that includes the services each client needs. It shall include the provision of medical/psychiatric, nursing and psychosocial services.

Unit—an integral, separate, segregated living space utilized only by either male, or by female clients, and who reside in that space of the licensed facility. Living spaces include the client's sleeping quarters and bathroom facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:51 (January 2017).

§7205. Licensing Requirements

A. Any person or entity applying for a FSTRA license shall meet all of the core licensing requirements contained in this Subchapter as well as module specific requirements, unless otherwise specifically noted herein.

B. All facilities providing forensic supervised transitional residential and aftercare services shall be licensed by the department. A FSTRA facility shall not be established, opened, operated, managed, maintained or conducted in this state without a license issued by the Department of Health. Each facility shall be separately licensed.

C. The Department of Health is the only licensing authority for FSTRA facilities in the state of Louisiana. It shall be unlawful to operate a FSTRA facility without possessing a current, valid license issued by the department.

D. Each FSTRA license shall:

1. be issued only to the person or entity named in the license application;
2. be valid only for the facility to which it is issued and only for the specific geographic address of that facility;
3. be valid for one year from the date of issuance, unless revoked, suspended or modified prior to that date, or unless a provisional license is issued;
4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the facility;
5. not be subject to sale, assignment, donation or other transfer, whether voluntary or involuntary; and
6. be posted in a conspicuous place on the licensed premises at all times.

E. In order for the FSTRA facility to be considered operational and retain licensed status, the facility shall meet the following conditions.

1. When clients are present, the facility shall provide 24 hours a day, 7 days per week supervision and the care and services sufficient to meet the needs of the clients, including but not limited to:

- a. at least three direct care staff persons during the day and two awake staff during the night;
- b. at least two direct care staff persons in each building and/or unit; and
- c. a functional security system on all points of ingress and egress with 24-hour, 7 days per week continuous monitoring by awake staff.

2. There shall be staff employed and available to be assigned to provide care and services to each client during all operational hours consistent with the behavioral health needs of each client.

3. The facility shall have provided services to at least two clients in the preceding 12-month period in order to be eligible to renew its license.

F. The licensed FSTRA facility shall abide by and adhere to any state law, rules, policy, procedure, manual, or memorandums pertaining to such facilities.

G. A separately licensed FSTRA facility shall not use a name which is substantially the same as the name of another such facility licensed by the department, unless the facility is under common ownership with other FSTRA facilities.

H. No branches, satellite locations or offsite campuses will be authorized for a FSTRA facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:52 (January 2017).

§7207. Initial Licensing Application Process

A. An initial application for licensing as a FSTRA facility shall be obtained from the department. A completed initial license application packet for a facility shall be submitted to and approved by the department prior to an applicant providing services. An applicant shall submit a completed initial licensing packet to the department, which shall include:

- 1. a completed facility licensure application and the non-refundable licensing fee as established by statute;
- 2. a copy of the approval letter of the architectural facility plans from the Office of the State Fire Marshal and any other office/entity designated by the department to review and approve the facility's architectural plans;
- 3. a copy of the on-site inspection report with approval for occupancy by the Office of the State Fire Marshal;
- 4. a copy of the health inspection report with approval of occupancy from the Office of Public Health;

5. a copy of the statewide criminal background checks on the following persons:

- a. all individual owners with a 5 percent or more ownership interest in the FSTRA facility entity;
- b. facility administrators; and
- c. members of the facility's board of directors, if applicable;

6. proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000;

i. any state agency operating a FSTRA facility, or any entity operating a facility pursuant to a cooperative endeavor agreement (CEA) with a state agency, shall be exempted from the line of credit requirement;

b. general and professional liability insurance of at least \$300,000; and

c. worker's compensation insurance;

7. if applicable, clinical laboratory improvement amendments (CLIA) certificate or CLIA certificate of waiver;

8. a letter-sized floor sketch or drawing of the premises to be licensed; and

9. any other documentation or information required by the department for licensure.

B. If the initial licensing packet is incomplete when submitted, the applicant will be notified of the missing information and will have 90 days from receipt of the notification to submit the additional requested information. If the additional requested information is not submitted to the department within 90 days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a facility shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

C. Once the initial licensing application packet has been approved by the department, notification of such approval shall be forwarded to the applicant. Within 90 days of receipt of the approval of the application, the applicant shall notify the department that the facility is ready and is requesting an initial licensing survey. If an applicant fails to notify the department within 90 days, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a licensed facility shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

D. When issued, the initial forensic supervised transitional residential and aftercare facility license shall specify the capacity of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:52 (January 2017).

§7209. Types of Licenses

A. The department shall have the authority to issue the following types of licenses.

1. Full Initial License. The department shall issue a full license to the facility when the initial licensing survey finds that the facility is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees. The license shall be valid until the expiration date shown on the license unless the license is modified, revoked, or suspended.

2. Provisional Initial License. The department shall issue a provisional initial license to the facility when the initial licensing survey finds that the facility is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, but the department determines that the noncompliance does not present a threat to the health, safety or welfare of the individuals receiving services. The provisional license shall be valid for a period not to exceed six months.

3. Full Renewal License. The department shall issue a full renewal license to an existing licensed facility which is in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license unless the license is modified, revoked, or suspended.

B. The department, in its sole discretion, may issue a provisional license to an existing licensed facility for a period not to exceed six months for the following reasons.

1. The existing facility has more than five deficient practices or deficiencies cited during any one survey.

2. The existing facility has more than three validated complaints in one licensed year period.

3. The existing facility has been issued a deficiency that involved placing a client at risk for serious harm or death.

4. The existing facility has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey.

5. The existing facility is not in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules regulations and fees at the time of renewal of the license.

C. When the department issues a provisional license to an existing licensed facility, the department

shall conduct an on-site follow-up survey at the facility prior to the expiration of the provisional license, and shall issue written notice of the results of the follow-up survey.

1. If the on-site follow-up survey determines that the facility has corrected the deficient practices and has maintained compliance during the period of the provisional license, the department may issue a full license for the remainder of the year until the anniversary date of the facility license.

2. If the on-site follow-up survey determines that the facility has not corrected the deficient practices or has not maintained compliance during the period of the provisional license, the provisional license shall expire and the facility shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee, if no timely informal reconsideration or administrative appeal of the deficiencies cited is filed pursuant to this Chapter.

a. At the sole discretion of the department, the provisional license may be extended for a period, not to exceed 90 days, in order for the facility to correct the noncompliance or deficiencies.

D. When the department issues a provisional license as a result of the initial licensing survey, the facility shall submit a plan of correction to the department for approval, and shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. The department shall conduct an on-site follow-up survey at the facility prior to the expiration of the provisional license and shall issue written notice to the facility of the results of the follow-up survey.

1. If all such noncompliance or deficiencies are determined by the department to be corrected on a follow-up survey, a full license will be issued.

2. If all such noncompliance or deficiencies are not corrected on the follow-up survey, the provisional license shall expire and the facility shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee and any applicable facility need review approval for licensure.

a. At the sole discretion of the department, the provisional license may be extended for an additional period, not to exceed 90 days, in order for the facility to correct the noncompliance or deficiencies.

E. The license for a facility shall be valid for one year from the date of issuance, unless revoked, suspended or modified prior to that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:53 (January 2017).

§7211. Licensing Surveys

A. Prior to the initial license being issued to the facility, an initial licensing survey shall be conducted on-site at the facility to assure compliance with licensing standards. The facility shall not provide services until the initial licensing survey has been performed and the facility found in compliance with the licensing standards. The initial licensing survey shall be an announced survey.

B. In the event that the initial licensing survey finds that the facility is compliant with all licensing laws, regulations and other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the facility.

C. In the event that the initial licensing survey finds that the facility is noncompliant with any licensing laws or regulations, or any other required statutes, laws, ordinances, rules or regulations, that present a potential threat to the health, safety, or welfare of clients, the department shall deny the initial license.

D. Once an initial license has been issued, the department shall conduct licensing and other surveys at intervals deemed necessary by the department to determine compliance with licensing standards and regulations, as well as other required statutes, laws, ordinances, rules, regulations, and fees. These surveys shall be unannounced.

E. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices.

1. An acceptable plan of correction may be required from a facility for any survey where deficiencies have been cited.

2. If deficiencies have been cited, regardless of whether an acceptable plan of correction is required, the department may issue appropriate sanctions, including, but not limited to:

- a. civil monetary penalties;
- b. directed plans of correction;
- c. license revocations; and
- d. denial of license renewal.

F. LDH surveyors and staff shall be:

1. given access to all areas of the facility and all relevant files during any licensing or other survey; and

2. allowed to interview any facility staff, or client as necessary to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:54 (January 2017).

§7213. Changes in Licensee Information or Personnel

A. A facility license shall be valid only for the person or entity named in the license application and

only for the specific geographic address listed on the license application.

B. Any change regarding the facility name, “doing business as” name, mailing address, phone number, or any combination thereof, shall be reported in writing to the department within five days of the occurrence. Any change regarding the facility name or “doing business as” name requires a change to the facility license and the required fee for the reissuance of an amended license.

C. Any change regarding the facility’s key administrative personnel shall be reported in writing to the department within five days of the change.

1. Key administrative personnel include the administrator, physician/psychiatrist and the registered nurse supervisor.

2. The facility’s notice to the department shall include the individual’s:

- a. name;
- b. facility address;
- c. hire date; and
- d. qualifications.

D. A change of ownership (CHOW) of the facility shall be reported in writing to the department within five days of the change of ownership.

1. The license of a facility is not transferable or assignable. The license of a facility cannot be sold.

2. In the event of a CHOW, the new owner shall submit the legal CHOW document, all documents required for a new license, and the applicable licensing fee. Once all application requirements are completed and approved by the department, a new license shall be issued to the new owner.

3. A facility that is under license suspension, revocation, denial of license renewal or provisional licensure shall not undergo a CHOW.

E. Any request for a duplicate license shall be accompanied by the required fee.

F. A facility that intends to change the physical address of its geographic location is required to have plan review approval, Office of State Fire Marshall approval, Office of Public Health approval, compliance with other applicable licensing requirements, and an on-site licensing survey prior to the facility relocation.

1. Written notice of intent to relocate shall be submitted to the licensing section of the department when plan review request is submitted to the department for approval.

2. The relocation of the facility’s physical address results in a new anniversary date and the full licensing fee shall be paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:54 (January 2017).

§7215. Renewal of License

A. License Renewal Application. The facility shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the existing current license. The license renewal application packet shall include:

1. the license renewal application;
2. a copy of the current on-site inspection with approval for occupancy from the Office of the State Fire Marshal;
3. a copy of the current on-site inspection report with approval of occupancy from the Office of Public Health;
4. proof of financial viability, comprised of the following:
 - a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000; any state agency operating a FSTRA facility, or any entity operating a FSTRA facility pursuant to a CEA with a state entity, shall be exempt from the line of credit requirement;
 - b. general and professional liability insurance of at least \$300,000; and
 - c. worker's compensation insurance;
5. the license renewal fee; and
6. any other documentation required by the department.

B. The department may perform an on-site survey and inspection upon annual renewal of a license.

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license will result in the voluntary non-renewal of the FSTRA license.

D. The renewal of a license or the denial of a renewal application does not in any manner affect any sanction, civil monetary penalty, or other action imposed by the department against the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:55 (January 2017).

§7217. Denial of License, Revocation of License, Denial of License Renewal

A. In accordance with the provisions of the Administrative Procedure Act, the department may:

1. deny an application for a license;
2. deny a license renewal; or
3. revoke a license.

B. Denial of an Initial License

1. The department shall deny an initial license when the initial licensing survey finds that the facility is noncompliant with any licensing laws or regulations or with any other required statutes, laws, ordinances,

rules or regulations that present a potential threat to the health, safety, or welfare of the clients who will be served by the facility.

2. The department may deny an initial license for any of the reasons in this Chapter that a license may be revoked or denied renewal.

C. Voluntary Non-Renewal of a License

1. If a facility fails to timely renew its license, the license expires on its face and is considered voluntarily surrendered. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary action on the part of the facility.

2. If a facility fails to timely renew its license, the facility shall immediately cease and desist providing services, unless the facility is actively treating clients, in which case the facility shall comply with the following:

- a. immediately provide written notice to the department of the number of clients receiving treatment at the facility;
- b. immediately provide written notice to the prescribing physician and to the client or legal representative of the following:
 - i. notice of voluntary non-renewal;
 - ii. notice of closure; and
 - iii. plans for orderly transition of the client(s);
- c. discharge and transition of each client within 15 days of voluntary non-renewal; and
- d. notify the department of the location where records will be stored and the contact person for the records.

3. If a facility fails to follow these procedures, the owners, managers, officers, directors and administrators may be prohibited from opening, managing, directing, operating or owning a FSTRA facility for a period of two years.

D. Revocation of License or Denial of License Renewal. A facility license may be revoked or may be denied renewal for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with the FSTRA facility licensing laws, rules and regulations or with other required statutes, laws, ordinances, rules or regulations;
2. failure to comply with the terms and provisions of a settlement agreement or education letter with or from the department, the Attorney General's office, any regulatory agency or any law enforcement agency;
3. failure to uphold clients' rights whereby deficient practices result in harm, injury, or death of a client;
4. negligent failure to protect a client from a harmful act of an employee or other client including, but not limited to:

- a. mental or physical abuse, neglect, exploitation, or extortion;
 - b. any action posing a threat to a client's health and safety;
 - c. coercion;
 - d. threat or intimidation;
 - e. harassment; or
 - f. criminal activity;
5. failure to notify the proper authorities, as required by federal or state law, rules or regulations, of all suspected cases of:
- a. mental or physical abuse, neglect, exploitation, or extortion;
 - b. any action posing a threat to a client's health and safety;
 - c. coercion;
 - d. threat or intimidation;
 - e. harassment; or
 - f. criminal activity;
6. knowingly making a false statement in any of the following areas, including but not limited to:
- a. application for initial license or renewal of license;
 - b. data forms;
 - c. clinical records, client records or facility records;
 - d. matters under investigation by the department or the Office of the Attorney General; or
 - e. information submitted for reimbursement from any payment source;
7. knowingly making a false statement or providing false, forged, or altered information or documentation to department employees or to law enforcement agencies;
8. the use of false, fraudulent or misleading advertising;
9. fraudulent operation of a facility by the owner, administrator, manager, member, officer or director;
10. an owner, officer, member, manager, administrator, director or person designated to manage or supervise client care has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court. For purposes of these provisions, conviction of a felony includes a felony relating to any of the following:
- a. violence, abuse, or negligence of a person;
 - b. misappropriation of property belonging to another person;
 - c. cruelty, exploitation, or sexual battery of a person with disabilities;
 - d. a drug offense;
 - e. crimes of sexual nature;
 - f. a firearm or deadly weapon;

g. fraud or misappropriation of federal or state funds, including Medicare or Medicaid funds;

11. failure to comply with all reporting requirements in a timely manner as required by the department;

12. failure to allow or refusal to allow the department to conduct an investigation or survey, or to interview provider staff or clients;

13. failure to allow or refusal to allow access to facility or client records by authorized departmental personnel; or

14. failure to maintain all required elements of the proof of financial viability without interruption.

E. If an existing facility has been issued a notice of license revocation or suspension and the facility's license is due for annual renewal, the department shall deny the license renewal. The denial of the license renewal does not affect in any manner the license revocation.

F. If a facility license is revoked or renewal is denied, any owner, officer, member, director, manager or administrator of such facility may be prohibited from opening, managing, directing, operating or owning another FSTRA facility for a period of two years from the date of the final disposition of the revocation or denial action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:55 (January 2017).

§7219. Notice and Appeal of License Denial, License Revocation and Denial of License Renewal

A. Notice of a license denial, license revocation or denial of license renewal shall be given to the provider in writing.

B. A facility has a right to an informal reconsideration of the license denial, license revocation or denial of license renewal. There is no right to an informal reconsideration of a voluntary non-renewal or surrender of a license by the facility.

1. The facility shall request the informal reconsideration within 15 calendar days of the receipt of the notice of the license denial, license revocation or denial of license renewal. The request for informal reconsideration shall be in writing and shall be forwarded to the department's Health Standards Section.

2. The request for informal reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an informal reconsideration is received by the Health Standards Section, an informal reconsideration shall be

scheduled and the facility will receive written notification of the date of the informal reconsideration.

4. The facility shall have the right to appear in person at the informal reconsideration and may be represented by counsel.

5. Correction of a violation or deficiency which is the basis for the denial, revocation or denial of license renewal shall not be a basis for reconsideration.

6. The informal reconsideration process is not in lieu of the administrative appeals process.

7. The facility will be notified in writing of the results of the informal reconsideration.

C. A facility has a right to an administrative appeal of the license denial, license revocation, or denial of license renewal. There is no right to an administrative appeal of a voluntary non-renewal or surrender of a license by the facility.

1. The facility shall request the administrative appeal within 30 calendar days of the receipt of the notice of the results of the informal reconsideration of the license denial, license revocation, or denial of license renewal. The facility may forego its rights to an informal reconsideration, and if so, the facility shall request the administrative appeal within 30 calendar days of the receipt of the notice of the license denial, license revocation, or denial of license renewal. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law (DAL).

2. The request for administrative appeal shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal is received by the DAL, the administrative appeal of the license revocation or denial of license renewal shall be suspensive, and the facility shall be allowed to continue to operate and provide services until such time as the department issues a final administrative decision.

a. If the secretary of the department determines that the violations of the facility pose an imminent or immediate threat to the health, welfare, or safety of a client, the imposition of the license revocation or license non-renewal may be immediate and may be enforced during the pendency of the administrative appeal. The facility shall be notified of this determination in writing.

4. Correction of a violation or a deficiency which is the basis for the denial, revocation or denial of license renewal shall not be a basis for the administrative appeal.

D. If a timely administrative appeal has been filed by the facility on a license denial, denial of license renewal or license revocation, the DAL shall conduct

the hearing in accordance with the Administrative Procedure Act.

1. If the final agency decision is to reverse the license denial, the denial of license renewal or the license revocation, the facility's license will be reinstated or granted upon the payment of any licensing or other fees due to the department and the payment of any outstanding sanctions due to the department.

2. If the final agency decision is to affirm the denial of license renewal or the license revocation, the facility shall discharge any and all clients receiving services. Within 10 days of the final agency decision, the facility shall notify the department's licensing section in writing of the secure and confidential location of where its records will be stored.

E. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional license to a new facility. A facility that has been issued a provisional license is licensed and operational for the term of the provisional license. The issuance of a provisional license to an existing facility is not considered to be a denial of license, a denial of license renewal, or a license revocation.

F. A facility with a provisional initial license or an existing facility with a provisional license that expires due to noncompliance or deficiencies cited at the follow-up survey, shall have the right to an informal reconsideration and the right to an administrative appeal regarding the deficiencies cited at the follow-up survey.

1. The facility has five calendar days from the receipt of the department's notice of the results of the follow-up survey to submit a written request for informal reconsideration of the follow-up survey findings.

2. The informal reconsideration and the administrative appeal are limited to whether the deficiencies were properly cited at the follow-up survey.

3. The correction of a violation, noncompliance, or deficiency after the follow-up survey shall not be the basis for the informal reconsideration or for the administrative appeal.

4. The facility has 15 calendar days from the receipt of the department's notice of the results of the follow-up survey to submit a written request for an administrative appeal.

G. A facility with a provisional license that expires under the provisions of this Chapter shall cease providing services and discharge clients unless the DAL issues a stay of the expiration.

1. A stay may be granted by the DAL upon application by the provider at the time the administrative appeal is filed and only:

a. after a contradictory hearing; and

b. upon a showing that there is no potential harm to the clients being served by the facility.

H. If a timely administrative appeal has been filed by a facility with a provisional license that has expired under the provisions of this Chapter, the DAL shall conduct the hearing in accordance with the Administrative Procedure Act.

1. If the final agency decision is to remove all deficiencies, the facility's license will be reinstated upon the payment of any licensing or other fees due to the department and the payment of any outstanding sanctions due to the department.

2. If the final agency decision is to uphold the deficiencies and affirm the expiration of the provisional license, the facility shall discharge all clients receiving services. Within 10 days of the final agency decision, the facility shall notify the department's licensing section in writing of the secure and confidential location of where records will be stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:56 (January 2017).

§7221. Complaint Surveys

A. The department shall conduct complaint surveys in accordance with R.S. 40:2009.13 et seq.

B. Complaint surveys shall be unannounced surveys.

C. A follow-up survey may be conducted for any complaint survey where deficiencies have been cited to ensure correction of the deficient practices. If the department determines that other action, such as license revocation, is appropriate, a follow-up survey may not be required. The facility will be notified of any action.

D. The department may issue appropriate sanctions, including but not limited to, civil monetary penalties, directed plans of correction, and license revocations for deficiencies and non-compliance with any complaint survey.

E. LDH surveyors and staff shall be given access to all areas of the facility and all relevant files during any complaint survey. LDH surveyors and staff shall be allowed to interview any facility staff, client, or participant, as necessary or required to conduct the survey.

F. A facility which has been cited with violations or deficiencies on a complaint survey has the right to request an informal reconsideration of the validity of the violations or deficiencies. The written request for an informal reconsideration shall be submitted to the department's Health Standards Section. The department must receive the written request within 10

calendar days of the facility's receipt of the notice of the violations or deficiencies.

G. A complainant shall have the right to request an informal reconsideration of the findings of the complaint survey or investigation. The written request for an informal reconsideration shall be submitted to the department's Health Standards Section. The department must receive the written request within 30 calendar days of the complainant's receipt of the results of the complaint survey or investigation.

H. An informal reconsideration for a complaint survey or investigation shall be conducted by the department as an administrative review. The facility or complainant shall submit all documentation or information for review for the informal reconsideration, and the department shall consider all documentation or information submitted. There is no right to appear in person at the informal reconsideration of a complaint survey or investigation. The facility's correction of the violation or deficiency shall not be the basis for the reconsideration. The facility and/or the complainant shall be notified in writing of the results of the informal reconsideration.

I. Except as provided pursuant to R.S. 40:2009.13 et seq., the informal reconsideration shall constitute final action by the department regarding the complaint survey or investigation, and there shall be no right to an administrative appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:57 (January 2017).

§7223. Statement of Deficiencies

A. The following statements of deficiencies issued by the department to a facility shall be posted in a conspicuous place on the licensed premises:

1. the most recent annual survey statement of deficiencies; and
2. any subsequent complaint survey statement of deficiencies.

B. Any statement of deficiencies issued by the department to a facility shall be available for disclosure to the public 30 calendar days after the facility submits an acceptable plan of correction of the deficiencies or 90 calendar days after the statement of deficiencies is issued to the facility, whichever occurs first.

C. Unless otherwise provided in statute or in this Chapter, a facility shall have the right to an informal reconsideration of any deficiencies cited as a result of a survey or investigation.

1. Correction of the deficient practice, of the violation, or of the noncompliance shall not be the basis for the reconsideration.

2. The informal reconsideration of the deficiencies shall be submitted in writing within 10 calendar days of receipt of the statement of deficiencies, unless otherwise provided for in these provisions.

3. The written request for informal reconsideration of the deficiencies shall be submitted to the Health Standards Section.

4. Except as provided for complaint surveys pursuant to R.S. 40:2009.11 et seq., and as provided in this Chapter for license denials, revocations, and denial of license renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies. There is no administrative appeal right of such deficiencies.

5. The facility shall be notified in writing of the results of the informal reconsideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:58 (January 2017).

§7225. Cessation of Business

A. A cessation of business or closure is deemed to be effective the date on which the facility stops providing services to the community or residents.

1. Except as provided in §7227 and §7228 of this Chapter, a license shall be immediately null and void if a FSTRA ceases to operate.

B. A cessation of business is considered to be a voluntary action on the part of the facility. As such, there is no right to an informal reconsideration and no right to an administrative appeal of a cessation of business or closure.

C. Upon the cessation of business, the facility shall immediately return the original license to the department.

D. A facility that intends to close or cease operations shall comply with the following procedures:

1. give 30 days' advance written notice to the:

- a. department;
- b. forensic psychiatrist; and
- c. ordering court of any conditional release

client(s); and

2. provide for an orderly discharge and transition of all clients admitted to the facility.

E. In addition to the 30 days' advance written notice, the facility shall submit a written plan for the disposition of patient medical records for approval by the department. The plan shall include the following:

1. the effective date of the closure;
2. provisions that comply with federal and state

laws on storage, maintenance, access, and confidentiality of the closed facility's patients medical records;

3. an appointed custodian(s) who shall provide the following:

a. access to records and copies of records to the patient or authorized representative, upon presentation of proper authorization(s); and

b. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction; and

4. public notice regarding access to records in the newspaper with the largest circulation in close proximity to the closing facility, at least 15 days prior to the effective date of closure.

F. If a facility fails to follow these procedures, the owners, managers, officers, directors and administrators may be prohibited from opening, managing, directing, operating or owning a FSTRA facility for a period of two years.

G. Once the facility has ceased doing business, the facility shall not provide services until the facility has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:58 (January 2017).

§7227. Temporary Inactivation of a License Due to a Declared Disaster or Emergency

A. A facility licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

1. the facility shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. the facility has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

b. the facility intends to resume operation as a FSTRA facility in the same service area;

c. includes an attestation that the emergency or disaster is the sole casual factor in the interruption of the provision of services;

d. includes an attestation that all clients have been properly discharged or transferred to another facility; and

e. provides a list of all clients and to where each client has been discharged or transferred;

2. the facility resumes operating as a FSTRA in the same service area within one year of the issuance of an executive order or proclamation of emergency or

disaster in accordance with R.S. 29:724 or R.S. 29:766;

3. the FSTRA continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties; and

4. the FSTRA continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to inactivate a FSTRA license, the department shall issue a notice of inactivation of license to the FSTRA.

C. Upon completion of repairs, renovations, rebuilding or replacement, the FSTRA which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. The FSTRA shall submit a written license reinstatement request to the licensing agency of the department 60 days prior to the anticipated date of reopening.

a. The license reinstatement request shall inform the department of the anticipated date of opening, and shall request scheduling of a licensing survey.

b. The license reinstatement request shall include a completed licensing application with appropriate licensing fees.

2. The facility resumes operating as a FSTRA in the same service area within one year.

D. Upon receiving a completed written request to reinstate a FSTRA license, the department shall conduct a licensing survey. If the FSTRA meets the requirements for licensure and the requirements under this Section, the department shall issue a notice of reinstatement of the FSTRA license.

1. The licensed capacity of the reinstated license shall not exceed the licensed capacity of the FSTRA at the time of the request to inactivate the license.

E. No change of ownership in the FSTRA shall occur until such FSTRA has completed repairs, renovations, rebuilding or replacement construction, and has resumed operations as a FSTRA.

F. The provisions of this Section shall not apply to a FSTRA which has voluntarily surrendered its license and ceased operation.

G. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the FSTRA license and any applicable facility need review approval for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:58 (January 2017).

§7228. Inactivation of License due to Non-Declared Emergency or Disaster

A. A FSTRA in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

1. the FSTRA shall submit written notification to the Health Standards Section within 30 days of the date of the non-declared emergency or disaster stating that:

a. the FSTRA has experienced an interruption in the provisions of services as a result of events that are due to a non-declared emergency or disaster;

b. the FSTRA intends to resume operation as a FSTRA in the same service area;

c. the FSTRA attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

d. the FSTRA's initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding or replacement of the facility.

NOTE: Pursuant to these provisions, an extension of the 30-day deadline for initiation of request may be granted at the discretion of the department.

2. the FSTRA continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties and/or civil fines; and

3. the FSTRA continues to submit required documentation and information to the department, including but not limited to cost reports.

B. Upon receiving a completed written request to temporarily inactivate a FSTRA license, the department shall issue a notice of inactivation of license to the FSTRA.

C. Upon the FSTRA's receipt of the department's approval of request to inactivate the FSTRA's license, the FSTRA shall have 90 days to submit plans for the repairs, renovations, rebuilding or replacement of the facility to OSFM and OPH as required.

D. The FSTRA shall resume operating in the same service area within one year of the approval of renovation/construction plans by OSFM and OPH as required.

1. Exception. If the FSTRA requires an extension of this timeframe due to circumstances beyond the FSTRA's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show the FSTRA's active efforts to complete construction or repairs and the reasons for request for extension of the FSTRA's inactive license. Any approvals for extension are at the sole discretion of the department.

E. Upon completion of repairs, renovations, rebuilding or replacement of the facility, a FSTRA

which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. the FSTRA shall submit a written license reinstatement request to the licensing agency of the department;

2. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing or physical environment survey; and

3. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

F. Upon receiving a completed written request to reinstate a FSTRA license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the FSTRA has met the requirements for licensure including the requirements of this Section.

NOTE: The licensed bed capacity of the reinstated license shall not exceed the licensed bed capacity of the FSTRA at the time of the request to temporarily inactivate the license.

G. No change of ownership of the FSTRA shall occur until such facility has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as a FSTRA.

H. The provisions of this Section shall not apply to a FSTRA which has voluntarily surrendered its license and ceased operation.

I. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the FSTRA license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:59 (January 2017).

§7229. Temporary Inactivation of Licensed FSTRA Beds Due to Major Alterations

A. A FSTRA which is undergoing major alterations to its physical plant may request a temporary inactivation of a certain number of licensed beds providing that:

1. The FSTRA submits a written request to the licensing agency of the department seeking temporary inactivation of a certain number of its licensed bed capacity. Such written request shall include the following:

- a. that the FSTRA has experienced or will experience a temporary interruption in the provisions of services to its licensed bed capacity as a result of major alterations;

- b. an attestation that the renovations are the sole causal factor in the request for temporary inactivation of a certain number of its licensed beds;

- c. the anticipated start date of the temporary inactivation of a certain number of licensed beds;

- d. the anticipated end date of the temporary inactivation of a certain number of licensed beds; and

- e. the number of licensed beds requested to be inactivated temporarily;

2. the FSTRA ensures the health, safety and welfare of each client during the major alterations; and

3. the FSTRA continues to provide, and each client continues to receive, the necessary care and services to attain or maintain the client's highest practicable physical, mental, and psychosocial well-being, in accordance with each client's comprehensive assessment and plan of care.

B. Upon receiving a completed written request for temporary inactivation of a certain number of the licensed bed capacity of a FSTRA, the department shall issue a notice of temporary inactivation of a certain number of the FSTRA's licensed beds.

C. No change of ownership in the FSTRA shall occur until such FSTRA has completed the major alterations and has resumed operating at prior approved licensed bed capacity.

D. Upon completion of the major alterations and receiving a completed written request to reinstate the number of licensed beds of a FSTRA, the department may conduct a physical environment survey. If the FSTRA meets the requirements for licensure and the requirements under this Subsection, the department may issue a notice of reinstatement of the FSTRA's licensed bed capacity.

NOTE: The licensed bed capacity after major alterations are completed shall not exceed the licensed bed capacity of the FSTRA at the time of the request to temporarily inactivate a certain number of its licensed bed capacity prior to renovations.

E. The provisions of this Subsection shall not apply to a FSTRA which has voluntarily surrendered its license and ceased operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:60 (January 2017).

Subchapter B. Administration and Organization

§7231. Governing Body

A. A FSTRA shall have an identifiable governing body with responsibility for, and authority over, the policies and activities of the program/facility.

B. A FSTRA shall have documents identifying the following information regarding the governing body:

1. names and addresses of all members;
2. terms of membership;
3. officers of the governing body; and
4. terms of office of any officers.

C. When the governing body of a FSTRA is comprised of more than one person, the governing

body shall hold formal meetings at least twice a year. There shall be written minutes of all formal meetings and bylaws specifying frequency of meetings and quorum requirements.

D. When the governing body is composed of only one person, this person shall assume all responsibilities of the governing body.

E. Responsibilities of a Governing Body. The governing body of a FSTRA shall:

1. ensure the FSTRA's compliance and conformity with the facility's charter or other organizational documents;

2. ensure the FSTRA's continual compliance and conformity with all relevant federal, state, local, and municipal laws and regulations;

3. ensure that the FSTRA is adequately funded and fiscally sound;

4. review and approve the FSTRA's annual budget;

5. designate a person to act as administrator and delegate sufficient authority to this person to manage the facility (a sole owner may be the administrator);

6. formulate and annually review, in consultation with the administrator, written policies concerning the FSTRA's philosophy, goals, current services, personnel practices, job descriptions and fiscal management;

7. annually evaluate the administrator's performance (if a sole owner is not acting as administrator);

8. have the authority to dismiss the administrator (if a sole owner is not acting as administrator);

9. meet with designated representatives of the department whenever required to do so;

10. inform designated representatives of the department prior to initiating any substantial changes in the services provided by the FSTRA; and

11. notify the Health Standards Section in writing at least 30 days prior to any change in ownership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:60 (January 2017).

§7233. Policy and Procedures

A. The FSTRA shall establish procedures to assure written communication among staff to ensure safety and continuity of services to all clients.

B. Direct care employees shall have access to information concerning clients that is necessary for effective performance of the employee's assigned tasks.

C. Confidentiality and Security of Files. A FSTRA shall have written procedures for the maintenance and

security of records specifying who shall supervise the maintenance of records, who shall have custody of records and to whom records may be released.

D. The FSTRA shall allow designated representatives of the department, in the performance of their mandated duties, to inspect all aspects of the FSTRA's practices which impact clients and to interview any staff member or client relevant or as required for any survey or investigation.

1. The FSTRA shall make any information or records that the facility is required to have and any information reasonably related to assessment of compliance with these requirements available to the department.

2. The client's rights shall not be considered abridged by this requirement.

E. Procedures shall address the following.

1. Confidentiality of Records

- a. The FSTRA shall maintain the confidentiality of all clients' records. Employees of the facility shall not disclose or knowingly permit the disclosure of any information concerning the client or his/her family, directly, or indirectly, to any unauthorized person.

- b. The FSTRA may use material from records for teaching and research purposes, if names are deleted and other identifying information is disguised or deleted.

2. Release of Information

- a. A FSTRA shall obtain the client's or legal representative's written, informed permission prior to releasing any information from which the client or his/her family might be identified, except to the department.

- b. Identifying information may be given to appropriate authorities in cases of an emergency.

- c. The FSTRA shall have a procedure by which representatives or family of clients is given an opportunity to receive information about the individual client in care of the facility.

3. Publicity

- a. The FSTRA shall have written policies and procedures regarding the photographing and audio or audiovisual recordings of clients.

- b. No client shall be photographed or recorded without the client's prior informed, written consent. Such consent cannot be made a condition for admission into, remaining in, or participating fully in the activities of the facility.

- i. Consent agreements shall clearly notify the client of his/her rights under this regulation, shall specify precisely what use is to be made of the photograph or recordings, and are valid for a maximum of one year from the date of execution.

- ii. Clients are free to revoke such agreements at any time, either orally or in writing.

c. All photographs and recordings shall be used in a way that respects the dignity and confidentiality of the client.

F. Personnel Policies. The FSTRA shall have written personnel policies that include:

1. a plan for recruitment, screening, orientation, ongoing training, development, supervision, and performance evaluation of staff members;

2. written job descriptions for each staff position including volunteers;

3. policies which provide for staff, either contracted or directly employed, to have a criminal background check, prior to offer of employment and, at least, annually thereafter. Such policy shall be defined in the facility's policy and procedures and in accordance with applicable state or federal laws;

4. policies which provide for staff, upon offer of employment, to have a health assessment, as defined in the facility's policy and procedures. Such policies shall apply for any staff, either contracted or directly employed.

a. these policies shall, at a minimum, require that the FSTRA's staff, either contracted or directly employed, have no evidence of active tuberculosis and be retested on a time schedule as mandated by the Office of Public Health. Test results dated within one year prior to the offer of employment are acceptable for initial employment;

5. policies which provide for any FSTRA staff, either contracted or directly employed, who provide transportation of clients, to have a driving history report upon hire and annually thereafter;

6. an employee grievance procedure;

7. abuse reporting procedures that require all employees to report any incidents of neglect, abuse or mistreatment whether that neglect abuse or mistreatment is done by another staff member, a family member, a client, or any other person;

a. these policies shall have, at a minimum, any reporting requirements to the facility administration, and to the department, as applicable; and

8. a written policy to prevent discrimination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:61 (January 2017).

Subchapter C. Admissions, Transfers and Discharges

§7235. Admissions

A. The facility shall have a clear and specific written description of admission policies and procedures. This written description shall include, but is not limited to the following:

1. the application process and the possible reasons for the rejection of an application;

2. types of clients suitable to the facility;

3. services offered and allowed in the facility; and

4. the facility's house rules.

B. Intake Evaluation

1. An intake evaluation shall take place on the first day of admission and shall include the client's:

a. demographic data;

b. family information; and

c. psychiatric and social background.

2. All of the facility's rules and regulations shall be reviewed with the client. A complete clothing inventory shall be completed and the client shall be assigned to a room.

C. Nursing Assessment

1. The licensed nurse shall complete a nursing assessment and review the client's medication(s). The client's medication administration records shall contain a detailed description of the client's:

a. medication;

b. dosage(s) of medication;

c. frequency medications should be taken; and

d. ability to self-administer medications.

D. Diagnostic Evaluation

1. The diagnostic evaluation shall include examination of the medical, psychosocial, social, behavioral and developmental aspects of the client's situation and reflect the need for services from a FSTRA.

2. Each medical evaluation shall include:

a. diagnoses;

b. summary of medical findings;

c. medical history;

d. mental and physical functional capacity;

e. prognosis; and

f. physician's recommendations.

E. An individualized plan of care for each client shall be developed upon admission and shall be revised to include recommended changes in the therapeutic plan. The plan to be followed in the event of emergency situations shall be specified in the plan of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:61 (January 2017).

§7237. Mandatory Transfers and Discharges

A. The administrator/director shall, in coordination with the client, forensic aftercare facility, Community Forensic Service, and state level forensic coordinator (as appropriate), assist in planning and

implementing the mandatory transfer or discharge of the client when:

1. the treatment plan goals and objectives are substantially met and a crisis relapse/prevention plan is developed and support systems are in place that allow the client to reside safely in a less restrictive environment;

2. the client's physician certifies that the client's physical condition necessitates transfer to a medical facility or the client's psychiatric condition necessitates transfer to a higher level of care; or

3. the client's condition is such that he or she is:

- a. a danger to self or others; or
 - b. is consistently disruptive to the peace and order of the facility, staff services, or other clients.

B. Emergency Discharge. The FSTRA shall immediately report to the Community Forensic Service, probation officer, state level forensic coordinator, and provider(s) of behavioral health services any program violations (i.e. illegal drugs, suspected or confirmed weapon possession or access, gross deterioration of behavior, or non-compliance with medication). The FSTRA in collaboration with the probation officer and community forensic staff, as appropriate, shall be responsible for the relocation of the client to an appropriate secure placement.

C. The facility shall initiate outpatient services for the client upon discharge and provide consultation to the client concerning where to obtain necessary medications, resources and follow-up outpatient behavioral health services.

D. Discharge Records

1. The following discharge information shall be recorded in the client's record:

- a. date of discharge;
 - b. destination; and
 - c. reason(s) for leaving.

2. Discharge records shall be retained in a secured environment in accordance with the facility's policy and procedure for at least three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:62 (January 2017).

Subchapter D. Participation Requirements

§7241. Assessment, Service Coordination, and Monitoring

A. Once the client is admitted, the facility shall conduct an assessment to determine the needs of the client. The assessment shall be kept in the client's record and shall at a minimum, include:

1. the client's interests, likes and dislikes;
2. review of physical health, psycho-social status, and cognitive status and the determination of services necessary to meet those needs;

3. a summary of the client's health needs, if any, including medication(s), treatment and special diet orders obtained from licensed professionals with responsibility for the client's physical or emotional health;

4. a written description of the activities of daily living and instrumental activities of daily living for which the client requires assistance, if any, obtained from the client or the client's physician;

5. recreational and social activities in accordance with the client's treatment plan;

6. a plan for handling special emergency evacuation needs, if any; and

7. additional information or documents pertinent to the client's treatment planning, such as guardianship papers, power of attorney, living wills, do not-resuscitate orders, or other relevant medical documents.

B. Within 30 days after admission, the facility, with input from the client, shall develop a service plan using information from the assessment.

C. The service plan shall be responsive to the client's needs and preferences. The service plan shall include:

1. the client's needs;

2. the scope, frequency, and duration of services and monitoring that will be provided to meet the client's needs;

3. staff/providers responsible for providing the services; and

4. a plan for the implementation towards the least restrictive settings.

D. The client's service plan shall be revised by the designated licensed facility staff when a client's needs or condition changes. The revised service plan shall be signed by the client and the designated facility staff.

E. The service plan shall be monitored on an ongoing basis by facility staff to determine its continued appropriateness and to identify when a client's condition or preferences have changed. A documented review of the service plan by the licensed professional staff shall be made at least every quarter. However, changes to the plan may be made at any time, as necessary.

F. All service plans and reviews shall be signed by the client and by the designated licensed facility staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:62 (January 2017).

§7243. Personal and Supportive Services

A. The facility shall provide adequate services and oversight/supervision, including adequate security measures, around the clock as needed for any client in accordance with the client's treatment plan.

B. Client Self-administration of Medications

1. The FSTRA shall have clear written policies and procedures on direct care staff assistance with client self-administration of medications.

2. The FSTRA shall assist clients in the self-administration of prescription and non-prescription medication(s) as agreed to in their contract or service plan and as allowed by applicable state statute and in accordance with the regulations of this Section.

3. Assistance with self-administration of medications shall be limited to the following.

a. The client may be reminded to take his/her medication(s) when such medications have been prescribed for a specific time of day, a specific number of times per day, specific intervals of time or for a specific time in relation to mealtimes or other activities such as arising from bed or retiring to bed.

b. The medication regimen, as indicated on the container, may be read to the client.

c. The dosage may be checked according to the container label.

d. The staff may open the medicine container (i.e. bottle, pill organizer, blister pak, etc.) and/or provide assistance with pouring medications if the client lacks the physical ability to open the container or pour his/her own medications and the client is cognitive of what the medication is, what the medication is for and the need for the medication.

i. Offering of liquids to a client who is familiar with his/her medications to assist that client in ingesting oral medications is allowed.

e. Assistance with self-administration of medications shall not include:

- i. administering injections of any kind;
- ii. administering any prescription medications including, but not limited to, eye drops, ear drops, nose drops, liquid medications, inhalers, suppositories, or enemas;
- iii. prompting or reminding a resident that it is time to take a PRN, or as-needed medication;
- iv. crushing or splitting medications;
- v. placing medications in a feeding tube; or
- vi. mixing medications with foods or liquids.

4. An employee that provides assistance with the self-administration of medications to a client shall have documented training on the policies and procedures for assistance with client self-administration of medications including the limitations of this assistance. This training shall be repeated and documented at least annually. Documentation shall include the signature of the employee initially and at least annually at time of training.

5. A competency evaluation shall be developed and conducted to ensure that each direct care staff

person that assists a client with the self-administration of medications is able to demonstrate competency in the training areas pursuant to §7243.B.1-4.

a. Documentation of such competency evaluation of each direct care staff person shall be maintained and readily available in the facility's records.

6. Unlicensed employees shall not perform medication administration which is separate and apart from the performance of assistance of a client with the self-administration of medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:63 (January 2017).

§7245. Nutrition

A. The facility shall provide three varied, palatable meals a day, seven days a week. Meals shall take into account clients' preferences and needs.

B. Menus shall be planned and written at least one week in advance and dated as served. The current week's menu shall be posted in one or more conspicuous places in the facility.

C. The facility shall provide medically prescribed diets as ordered by the client's physician. These menus shall be planned or approved by a licensed registered dietitian (LRD) and shall include nourishing snacks. The LRD shall be available for consultation as needed and may be either contracted or directly employed by the facility.

D. The facility shall purchase and provide to the clients only food and drink of safe quality. The storage, preparation and serving techniques shall ensure that nutrients are retained and spoilage is prevented. Milk and milk products shall be Grade A and pasteurized.

E. Staff shall be available in the dining area to provide supervision as needed.

F. Written reports of inspections by the Department of Health, Office of Public Health, Sanitarian Services shall be kept on file in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:63 (January 2017).

§7247. Transportation Requirements

A. The facility shall have the capacity to provide or to arrange transportation for the following:

1. transportation to behavioral health services (i.e., community mental health center or addictive disorder clinic); and

2. all other related medical appointments.

B. The facility shall:

1. have automotive liability insurance coverage and have proof of such continuous coverage for any vehicle that provides client transportation and which is

owned/operated by the facility and staff, either contracted or directly employed;

2. conform to all applicable state laws and regulations pertaining to drivers, vehicles and insurance; and

3. provide for safety of clients by ensuring all transportation drivers have current driving records and current driver's licenses in good standing.

C. The number of occupants allowed in a car, bus, station wagon, van, or any other type of transportation shall not exceed the number of manufacturer's issued seat belts for passengers and the number of passengers for which the vehicle is designed.

D. Provisions shall be made to accommodate clients who use assistive devices for ambulation.

E. Each vehicle shall be maintained in safe, operating condition.

F. If the center contracts with a commercial proprietor for transportation, such shall be licensed to provide commercial transportation. All rules established for transportation furnished by the center shall be observed by the contracted commercial proprietor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:64 (January 2017).

Subchapter E. Client Protection

§7251. Client Rights

A. The facility shall have a written policy on clients' civil rights and the practices of the facility shall assure that no client of a facility shall be deprived of civil or legal rights, benefits or privileges guaranteed by law or the Constitution of the United States solely by reason of status as a client of a facility. A copy of these rights shall be posted conspicuously in the facility.

B. In addition to the basic rights enjoyed by other adults, the facility's written policy on rights shall assure that clients shall be afforded the rights enumerated in R.S. 28:171.

C. The client shall receive, upon admission and during his/her stay, a written statement of the services provided by the facility and the charges for these services.

D. The client shall be free from mental, emotional, and physical abuse and neglect and assured that no chemical restraints will be used.

E. The facility shall ensure that records and other information about the client are kept confidential and released only with a client's expressed written consent or in accordance with state law.

F. In accordance with facility policy and pursuant to R.S. 28:171, the facility shall ensure that the client:

1. receives a timely response to a request from the administrator/director and/or staff;

2. has access to private telephone communication;

3. is able to send and receive mail promptly and unopened;

4. is notified in writing by the facility when the facility's license status is suspended, revoked or limited, and to be informed of the basis of the licensing agency's action;

5. is allowed to select a health care provider and arrange for the services, at his/her own expense, which are not available through the facility as long as the client remains in compliance with the conditions of his/her admission to the facility;

6. is encouraged and assisted to exercise rights as a citizen;

7. is allowed to voice grievances and suggest changes in policies and services to either staff or outside representatives without fear of restraint, interference, coercion, discrimination, or reprisal;

8. is fully informed of all client rights and all rules governing client conduct and responsibilities; and

9. is allowed to consult freely with counsel of their choice.

G. Each client shall be fully informed of these rights and of all rules and regulations governing client conduct and responsibilities, as evidenced by written acknowledgment, prior to or at the time of admission, and when changes occur.

1. Each client's file shall contain a copy of the written acknowledgment which shall be signed and dated by the director or his/her designee, the client and/or representative.

H. The facility shall establish and have written grievance procedures that include, but are not limited to:

1. a formal process to present grievances; and

2. a process to investigate and to respond to grievances in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:64 (January 2017).

Subchapter F. Facility Responsibilities

§7255. General Provisions

A. Facilities shall comply and show proof of compliance with all relevant standards, regulations and requirements established by state, local and municipal regulatory bodies. It is the facility's responsibility to secure the approvals from the following entities:

1. LDH, Health Standards Section;

2. Office of Public Health;

3. Office of State Fire Marshal;
4. city fire department, if applicable; and,
5. the applicable local governing authority (e.g., zoning, building department or permit office).

B. The administrator/director or person authorized to act on behalf of the administrator/director shall be accessible to facility staff or designated representatives of LDH at all times.

1. Updated electronic mail and/or telephonic contact information of key administrative personnel shall be provided to the department's Health Standards Section.

C. The facility shall have an administrative file that includes:

1. the Articles of Incorporation or certified copies thereof, if incorporated, or partnership documents, if applicable;

2. a current copy of the approved constitution and/or bylaws of the governing body;

3. a current roster of the governing body membership which includes the members' addresses;

4. written policies and procedures approved by the owner/governing body that address the following:

- a. confidentiality and security of files;
- b. publicity;
- c. personnel;
- d. client's rights;
- e. grievance procedure;
- f. safekeeping of personal possessions, if applicable;
- g. clients' funds, if applicable;
- h. emergency and evacuation procedures;
- i. abuse and neglect;
- j. critical incidents;
- k. admissions and discharge procedures;
- l. assistance with client self-administration of medication;

m. driver training, safety and responsibilities while transporting clients; and

n. policies related to client transportation; either contracted or provided by facility staff;

5. the minutes of formal governing body meetings;

6. an organizational chart of the FSTRA;

7. all leases, contracts and purchase-of-service agreements to which the FSTRA is a party, which includes all appropriate credentials;

8. insurance policies:

a. every facility shall maintain in force at all times a comprehensive general business insurance policy or policies in an amount adequate to cover all foreseeable occurrences. The insurance shall include coverage for any:

i. personal or professional negligence, malpractice or misconduct by facility owners or employees;

ii. injuries received by any client while being transported by facility staff or third-party contractors; and

iii. injuries sustained by any client while in the facility; and

9. incident/accident reports.

D. The facility shall maintain a personnel record for each employee. At a minimum, this file shall contain the following:

1. the application for employment and/or résumé of education, training, and experience;

2. evidence of a criminal history check prior to an offer of employment and annually thereafter, in accordance with state laws and regulations;

3. evidence of applicable professional credentials, licensing or certifications according to state law;

4. documentation of Tuberculosis test results and any other facility required medical examinations;

5. documentation of reference checks or employee screening in accordance with facility policy;

6. annual performance evaluation;

7. the employee's hire and termination dates;

8. documentation of orientation and annual training, including but not limited to safety and transportation of clients; and

9. documentation of a current, valid and unrestricted driver's license if driving or transporting clients.

E. The facility shall not release an employee's personnel record without the employee's written permission, except as required by state law.

F. The facility shall have a personnel record for each employee to be kept on the premises or at the corporate office. These records shall be made available and accessible to the survey staff within one hour of request by department surveyors.

1. All records shall be maintained in an accessible, standardized order and format, and shall be retained and disposed of in accordance with state laws.

2. A facility shall have sufficient space, facilities and supplies for providing effective record keeping services, either electronically or via paper documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:64 (January 2017).

§7257. Core Staffing Requirements

A. Each facility shall be staffed to properly safeguard the health, safety and welfare of the clients, as required by these regulations. At a minimum, the following staff positions are required; however, one person may occupy more than one position.

B. Consulting Forensic Psychiatrist

1. Each facility shall have a qualified physician, currently licensed to practice medicine in Louisiana, who:

- a. signs the order admitting the individual to the facility;
- b. maintains overall responsibility for the client's medical management; and
- c. is readily available for consultation and collaboration with the facility staff.

2. The forensic psychiatrist may act as consultant by employment on staff, by contract, or by arrangement with state agency.

C. Administrator/Director

1. Each facility shall have a qualified administrator/director who is an on-site employee and is responsible for the day-to-day management, supervision and operation of the facility.

2. During periods of temporary absence of the administrator/director, there shall be a responsible staff person designated to be in charge that has the knowledge and responsibility to handle any situation that may occur.

3. There shall be a responsible staff person designated to be in charge on the premises of the facility 24 hours per day.

4. The administrator/director shall be at least 21 years of age and have the responsibility and authority to carry out the policies of the facility.

5. The administrator/director shall meet one of the following criteria upon date of hire:

- a. possess a bachelor's degree from an accredited institution plus one year of administrative experience in the fields of health care, behavioral health services, or forensics;
- b. possess an associate's degree from an accredited institution plus two years of administrative experience in the fields of health care, behavioral health services, or forensics; or
- c. in lieu of a degree, possess six years of administrative experience in health care, behavioral health services, or forensics.

6. Documentation of the administrator/director's qualifications shall be maintained on file at the facility.

D. Nursing Services

1. The facility shall provide a sufficient number of nursing service personnel consisting of registered nurses, licensed practical nurses and other staff to provide nursing care to all clients in accordance with the client's treatment plan.

2. Registered Nurse (RN). The facility shall employ or contract with at least one RN who is responsible for the overall delivery and supervision of nursing services.

- a. The RN shall be currently licensed by, and in good standing with, the state nursing board of

Louisiana. No individual who is unlicensed may be employed, either directly or by contract, by the facility as an RN.

b. The RN shall:

- i. be on-site or available by telephone during the day time hours of the facility;
- ii. develop policies and procedures related to the delivery of nursing services; and
- iii. provide medication management through administration, supervision, education and training.

3. Licensed Practical Nurse (LPN). The facility shall employ or contract with LPNs to meet the nursing needs of the clients.

- a. The LPN shall be currently licensed by, and in good standing with, the state nursing board of Louisiana. No individual who is unlicensed may be employed, either directly or by contract, by the facility as a LPN.

b. LPNs may administer medication and deliver nursing services as provided by Louisiana law or applicable regulations.

E. Direct Care Staff

1. The facility shall ensure that an adequate number of trained direct care staff, either contracted or directly employed, is available to meet the needs of the clients in accordance with the client's scheduled and unscheduled needs.

2. Direct care staff may include care assistants, activities personnel, or other staff who provide direct care services to clients on a regular basis.

3. Direct care staff shall have the following qualifications:

- a. a minimum of a high school diploma, eighteen years of age and six months of experience working with adults with a serious and persistent behavioral health diagnosis; or
- b. two years of experience working with adults with a serious and persistent behavioral health diagnosis.

4. The facility shall have at least two direct care staff on site when there is at least one client at the facility.

5. The facility shall demonstrate that sufficient staff is scheduled and available (working) to meet the 24-hour scheduled and unscheduled needs of the clients. At a minimum, there shall be one direct care staff person on duty for every 15 clients.

6. The facility shall not share direct care staff with another licensed facility. (Staff cannot fill two staff positions on the same shift at different licensed facilities.)

F. The facility shall maintain a current work schedule for all employees, either contracted or directly employed, including relief workers, ensuring adequate coverage for each day and night shift.

G. Facility professional staff shall be licensed and/or certified by the appropriate state licensing or certification board(s) of Louisiana. The license and/or certification shall be current, unrestricted and in good standing.

H. Designated Recreational/Activity Staff. There shall be an individual designated to organize and oversee the recreational and social programs of the facility.

I. A facility shall provide, as needed, consultation(s) with a licensed registered dietitian, either directly employed or contracted.

J. Direct Care Staff Orientation and Training

1. Prior to providing services to clients, the FSTRA shall provide a 20-hour documented orientation including, but not limited to the following:

- a. the policies and procedures of the facility, including program components;
- b. emergency and evacuation procedures;
- c. training in proper fire and emergency safety procedures including:
 - i. CPR;
 - ii. the Heimlich maneuver;
 - iii. first aid;
 - iv. crisis management; and
 - v. risk reduction;
- d. effective communication skills for forensic, behavioral health clients;
- e. confidentiality and HIPAA requirements;
- f. trainings and intervention programs as deemed appropriate and mutually agreed upon by Community Forensic Services and the state level forensic coordinator;
- g. client's rights;
- h. procedures and requirements regarding the reporting of abuse, neglect and critical incidents; and
- i. transportation safety and responsibilities for staff that transport clients.

2. Orientation for direct care staff shall include an additional five days of supervised training. Training, at a minimum, shall include the following:

- a. training in client care services (ADLs and IADLs) provided by the facility;
- b. infection control to include blood borne pathogens;
- c. crisis de-escalation and the management of aggressive behavior including acceptable and prohibited responses; and
- d. any specialized training to meet clients' needs.

3. A new employee, either contracted or directly employed, shall not be given sole responsibility for the implementation of a client's program plan until this orientation and training is completed.

a. The new employee, either contracted or directly employed, shall sign a statement certifying

that such training has occurred and this shall be maintained in the new employee's personnel file.

4. Orientation and five days of supervised training shall meet the first year's annual training requirements.

5. All direct care staff, either contracted or directly employed, shall receive certification in adult first aid and CPR within the first 30 days of employment.

a. Documentation of such certification shall be maintained in the personnel file of each direct care staff person.

K. Annual Training

1. A facility shall ensure that each direct care worker, contracted or directly employed, participates in and satisfactorily completes a minimum of 16 hours of training each year to ensure continuing competence.

NOTE: Orientation and normal supervision shall not be considered as meeting this requirement.

2. The facility shall document that direct care staff receives training on an annual basis in:

- a. the facility's policies and procedures;
- b. emergency and evacuation procedures;
- c. client's rights;
- d. the procedures and legal requirements concerning the reporting of abuse and critical incidents;
- e. client care services (ADL'S & IADL'S);
- f. infection control to include blood borne pathogens; and
- g. any other areas that may require specialized training to meet clients' needs including but not limited to, driver safety in transporting clients.

3. All direct care staff, either contracted or directly employed, shall have documentation of current certification in adult first aid and CPR.

4. The administrator/director shall participate annually in at least 12 hours of continuing education in the field of behavioral health and specialized training in the population served and/or supervisory/management techniques.

5. Each employee shall sign a statement of understanding certifying that annual training has occurred.

L. A competency evaluation shall be developed and conducted to ensure that, at a minimum, each direct care staff person is able to demonstrate competencies in the training areas in §7257.I-J core staffing requirements.

1. Documentation of such competency evaluation of each direct care staff person shall be maintained and readily available in the agency's records.

M. An employee's annual performance evaluation shall include his/her interaction with clients, family, staff and other providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:65 (January 2017).

§7259. Client Records

A. The facility shall maintain a separate record for each client. Such records shall be current and complete and shall be maintained in the facility or in a central administrative location readily available to facility staff and to the department.

B. All records shall be maintained in an accessible, standardized order and format, either electronically and/or in paper form, and shall be retained and disposed of in accordance with state laws.

C. The facility shall have sufficient space, equipment, and supplies for providing effective record keeping services.

D. The facility shall have a secured storage area that ensures the safeguarding of all electronic or paper client records and that prevents loss from, including but not limited to, fire or water.

E. Each record shall contain at least the following information:

1. the client's identifying and personal information including:
 - a. the client's name;
 - b. date of birth;
 - c. sex;
 - d. Social Security number;
 - e. previous home address; and
 - f. marital status, if applicable;
2. dates of admission and discharge;
3. names, addresses, and telephone numbers of responsible persons to be notified in case of accident, death or other emergency;
4. name, address, and telephone number of a physician and dentist to be called in an emergency;
5. ambulatory status;
6. the client's plan/authorization for routine and emergency medical care, as required;
7. the client's written authorization for a representative and their name, address and telephone number, if applicable;
8. the pre-admission assessment by a forensic psychiatrist and admission agreement;
9. findings of the assessment and any special problems or precautions identified;
10. the service plan, updates, and quarterly reviews;
11. continuing record of any illness, injury or medical or dental care when it impacts the client's ability to function or the services he/she needs;
12. a record of all personal property and funds which the client has entrusted to the facility;

13. reports of any client complaints or grievances and the conclusion or disposition of these reports;

14. incident reports; and

15. written acknowledgments that the client has received clear verbal explanations and:

- a. copies of his/her rights and the house rules;
- b. written procedures for safekeeping of valuable personal possessions of clients; and
- c. a written statement explaining the client's rights regarding personal funds and the right to examine his/her record.

F. All information and records obtained from or regarding clients shall be securely stored and kept confidential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:67 (January 2017).

§7261. Abuse and Neglect

A. The facility shall have comprehensive written procedures concerning client abuse and neglect to include provisions for:

1. training and maintaining staff awareness of abuse prevention, current definitions of abuse and neglect, reporting requirements and applicable laws;
2. protecting clients from abuse inflicted by other clients, employees or third parties, including but not limited to, criminal prosecution of the offending person and his/her permanent removal from the facility;
3. ensuring that regulations stipulated in this rule for reporting any incidents involving abuse and neglect are followed;
4. ensuring that the administrator/director completes an investigation report within 10 working days; and
5. ensuring that the client is protected from potential harassment during such investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:67 (January 2017).

§7263. Critical Incidents

A. A facility shall have written procedures for the reporting and documentation of unusual incidents and other situations or circumstances affecting the health, safety or well-being of a client(s) (i.e. death by unnatural causes, injuries, fights or physical confrontations, situations requiring the use of passive physical restraints, suspected incidents of abuse or neglect). Critical incidents shall be defined by facility policy, approved by the facility's governing body and reviewed at least annually.

1. Such procedures shall ensure timely verbal reporting to the director or designee and a preliminary written report within 24 hours of the incident.

2. Copies of all critical incident reports shall be kept as part of the client's record and a separate copy shall be kept in the administrative file of the facility.

B. Incident/Accident Report. When an incident occurs, a detailed report of the incident shall be documented. At a minimum, the incident report shall provide documentation of the following:

1. the circumstances under which the incident occurred;
2. the date and time the incident occurred;
3. the location where the incident occurred (bathroom, bedroom, street, lawn, etc.);
4. immediate treatment and follow-up care;
5. the names and addresses of witnesses;
6. the date and time the family or representative was notified;
7. any symptoms of pain and injury discussed with the physician; and
8. the signatures of the staff completing the report, client, and administrator/director.

C. When an incident results in the death of a client, involves abuse or neglect of a client, or entails any serious threat to the client's health, safety or well-being, a facility shall:

1. immediately take appropriate corrective action to protect the client and to prevent further incidents;
2. report the incident verbally to the administrator within two hours of the time of the incident;
3. notify the appropriate law enforcement authority in accordance with state law, but no later than 24 hours after the time of the incident;
4. verbally notify the family or the client's representative as soon as possible but no later than two hours after the time of the incident, with written notification to follow within 24 hours;
5. notify the Department of Health, Health Standards Section, and other appropriate authorities in accordance with state law, with written notification to the above agencies to follow within 24 hours of the time of the incident;
6. provide follow-up written reports to all of the persons and agencies identified in this §7261.C; and
7. document its compliance with all of the above procedures for each incident and shall keep such documentation (including any written reports or notifications) in the client's file. A separate copy of all such documentation shall be kept in the facility's administrative file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:68 (January 2017).

§7265. Personal Possessions

A. The facility may, at its discretion, offer to clients the service of safekeeping their valuable possessions. The facility shall have a written statement of its policy.

B. If the facility offers such a service, a copy of the written policy and procedures shall be given to a client at the time of his/her admission.

C. The facility shall give the client a receipt listing each item that it is holding in trust for the client. A copy of the receipt shall be placed in the client's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:68 (January 2017).

§7267. Client Funds

A. The facility's admission agreement shall include the client's rights regarding personal funds and list the services offered and charges, if any.

B. The facility shall offer safekeeping and management of a client's funds. If a client chooses to entrust funds with the facility, the facility shall obtain written authorization from the client and/or his/her representative for the safekeeping and management of the funds.

C. The facility shall:

1. provide each client with an account statement on a quarterly basis with a receipt listing the amount of money the facility is holding in trust for the client;
2. maintain a current balance sheet containing all financial transactions to include the signatures of staff and the client for each transaction;
3. provide a list or account statement regarding personal funds upon request of the client;
4. maintain a copy of each quarterly account statement in the client's record;
5. keep the funds received from the client in a separate interest-bearing account; and
6. not commingle the clients' funds with the facility's operating account.

D. The facility shall develop, implement, and follow written policies and procedures to protect client funds.

E. Unless otherwise provided by state law, upon the death of a client, the facility shall provide the executor or administrator of the client's estate or the client's representative, as agreed upon in the admission agreement, with a complete account statement of the client's funds and personal property of the client being held by the facility.

F. A client with a personal fund account managed by an FSTRA facility may sign an account agreement

acknowledging that any funds deposited into the personal account by, or on the client's behalf, are jointly owned by the client and his legal representative or next of kin. The account agreement shall state that:

1. the funds in the account shall be jointly owned with the right of survivorship;
2. the funds in the account shall be used by, for or on behalf of the client;
3. the client or the joint owner may deposit funds into the account; and
4. the client or joint owner may endorse any check, draft or other monetary instrument to the order of any joint owner, for deposit into the account.

G. If a valid account agreement has been executed by the client, upon the client's death, the facility shall transfer the funds in the client's personal fund account to the joint owner within 30 days of the client's death.

H. If a valid account agreement has not been executed, upon the client's death, the facility shall comply with the federal and state laws and regulations regarding the disbursement of funds in the account and the properties of the deceased. The facility shall abide by the procedures of the Louisiana Department of the Treasury and the Louisiana Uniform Unclaimed Property Act for the handling of funds of a deceased client that remain unclaimed.

I. The provisions of this Section shall have no effect on federal or state tax obligations or liabilities of the deceased client's estate. If there are other laws or regulations which conflict with these provisions, those laws or regulations will govern over and supersede the conflicting provisions.

J. A termination date of the account and the reason for termination shall be recorded on the client's participation file. A notation shall read, "to close account." The endorsed cancelled check with check number noted on the ledger sheet shall serve as sufficient receipt and documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:68 (January 2017).

§7269. Contraband

A. There shall be no contraband, illegal drugs, controlled dangerous substances or any medications that are not prescribed to a client, on the campus of the facility. Clients may be subjected to random periodic drug testing as a requirement for residency at the facility. A positive drug test shall be reported to the attending psychiatrist and the applicable court.

B. The facility shall have written policies defining contraband and procedures for staff to follow when contraband is discovered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:69 (January 2017).

Subchapter G. Safety and Emergency Preparedness

§7271. General Provisions

A. The facility shall have an emergency preparedness plan designed to manage the consequences of natural disasters or other emergencies that could disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the clients and/or the community it serves. The emergency preparedness plan shall be made available, upon request or if mandated to do so, to local, parish, regional and/or state emergency planning organizations, the department and the Office of the State Fire Marshal.

B. At a minimum, the emergency preparedness plan shall include:

1. identification of potential hazards that could necessitate an evacuation, including internal and external disasters such as a natural disaster, acts of bioterrorism, weapons of mass destruction, labor work stoppage or industrial or nuclear accidents;
2. emergency procedures for evacuation of the facility;
3. procedures in the case of interruption of utility services in a way that affects the health and safety of clients;
4. identification of the facility and an alternate facility to which evacuated clients would be relocated;
5. the estimated number of clients and staff that would require relocation in the event of an evacuation;
6. the system or procedure to ensure that medical charts accompany clients in the event of a client evacuation and that supplies, equipment, records and medications would be transported as part of an evacuation; and
7. the roles and responsibilities of staff members in implementing the disaster plan.

C. The facility shall conduct and document fire drills once per quarter, one drill per shift every 120 days, at varying times of the day. Each employee, either contracted or directly employed, shall participate in at least one drill annually.

D. The facility shall immediately notify the Health Standards Section and other appropriate agencies of any fire, disaster or other emergency that may present a danger to clients or require their evacuation from the facility.

E. The facility shall have access to 24-hour telephone service, and shall either post telephone numbers of emergency services, including the fire department, police department, medical services, poison control and ambulance services or show

evidence of an alternate means of immediate access to these services.

F. General Safety Practices

1. The facility shall not maintain any firearm or chemical weapon in the living units of the facility.

2. The facility shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers labeled as to the contents. Such materials shall be maintained only as necessary and shall be used in a manner that ensures the safety of clients, staff and visitors.

3. The facility shall ensure that an appropriately equipped first aid kit is available in the living units and in all vehicles used to transport clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:69 (January 2017).

Subchapter H. Physical Environment

§7275. General Provisions

A. Location

1. The area to be licensed as a FSTRA facility shall meet all of the licensing regulations established for FSTRA facilities.

2. A facility that is located within any other facility shall be secure and have its own identifiable staff, space and storage. The facility shall have a separate entrance, separate dining area and separate common areas.

3. A facility that accepts both male and female clients shall not assign male and female clients to reside within the same unit of the licensed facility.

B. General Appearance and Conditions

1. Heating, cooling and ventilation systems shall permit comfortable conditions.

2. Furniture that is clean, safe and operable, where applicable, shall be available to facilitate usage by the number of clients in the facility.

3. The facility shall have sufficient space and equipment to accommodate the full range of program activities and services.

4. The facility shall be flexible and adaptable for large and small groups and individual activities and services.

5. There shall be sufficient office space to permit staff to work effectively and without interruption.

6. There shall be adequate storage space for program and operating supplies.

C. Interior Space

1. Floors and steps shall have a non-slippery surface and kept dry when in use by the clients.

2. Doorways and passageways shall be kept clear to allow free and unhindered passage.

3. The facility shall provide an appropriate controlled-egress system on all required exit doors and doors leading to other areas of the facility unless prior approval of an alternative method for prevention of client elopement from the facility has been obtained from the authority (Office of the State Fire Marshal) having jurisdiction over such matters.

4. All staff shall have a key to locked exit doors.

5. All operable windows shall be equipped with a mechanism to limit exterior openings to prevent elopement.

6. Windows used for ventilation to the outside and exterior doors used for ventilation shall be screened and in good repair.

7. The facility shall be constructed, equipped, and maintained in operating condition and kept free of hazards.

8. The facility shall have sufficient storage space for administration records, locked areas for medications, cleaning supplies (janitorial), food service (supplies) and lawn maintenance (equipment).

9. There shall be evidence of routine maintenance and cleaning programs in all areas of the facility.

10. The facility shall have an effective pest control program. Pest control services may be provided by maintenance personnel of the facility or by contract with a pest control company. If pest control chemicals are stored in the facility, they shall be kept in a locked location.

11. The facility shall have an area for the safe and secure maintenance and storage of medical records and other facility files, records and manuals.

D. Bedrooms

1. Single rooms shall contain at least 100 square feet and multi-bed rooms shall contain at least 80 square feet per bed, exclusive of fixed cabinets, fixtures, and equipment. An existing state owned or operated hospital that converts a building, unit or wing to a facility shall contain a minimum of 65 square feet per bed in a multi-bed room.

2. Any client room shall not contain more than four beds.

a. Beds shall be of solid construction, appropriate to the size and age of the client and have a clean, comfortable, non-toxic fire-retardant mattress that fits the bed.

b. Cots or other portable beds are to be used in emergencies only.

3. Rooms shall have at least a 7 1/2 foot ceiling height over the required area.

a. In a room with varying ceiling heights, only portions of the room with a ceiling height of at least 7 1/2 feet are allowed in determining usable space.

4. There shall be at least three feet between beds.

5. There shall be sufficient and satisfactory separate storage space for clothing, toilet articles and other personal belongings of clients.

6. Doors to individual bedrooms shall not be equipped with locks or any other device that would prohibit the door from being opened from either side.

7. The facility shall not use any room that does not have a window as a bedroom space.

8. The facility shall provide sheets, pillows, bedspreads and blankets that are of good quality for each client. Linens that are torn or worn shall not be used.

9. Each client shall have his/her own dresser or other adequate storage space for private use and designated space for hanging clothing in proximity to the bedroom occupied by the client.

10. The facility shall not assign clients to a space that is not part of the licensed facility.

E. Bathrooms

1. The number of toilets and hand-washing facilities shall not be less than one designated, segregated male bathroom facility and one designated, segregated female bathroom facility per 13 clients.

a. Post promulgation of this rule, facilities seeking to change geographic location or new construction, and that have not received plan review approval, the number of toilets and hand-washing facilities shall be in accordance with current, applicable state laws, rules and regulations.

2. A bathroom facility shall have wash basins with hot and cold water, flush toilets, and bath or shower facilities with hot and cold water according to client care needs.

3. Bathrooms shall be so placed as to allow access without disturbing other clients during sleeping hours.

4. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene, unless clients are individually given such items.

a. Clients shall be provided individual items such as hair brushes and toothbrushes.

5. Tubs and showers shall have slip proof surfaces.

6. The facility shall have toilets and baths or showers that allow for individual privacy, unless the clients in care require assistance.

7. Toilets, wash basins and other plumbing or sanitary facilities in the facility shall, at all times, be maintained in operable condition and shall be kept free of any materials that might clog or otherwise impair their operation.

8. The facility shall have separate toilet facilities for staff.

F. Furnishings

1. The facility shall be sufficiently furnished to meet the needs of the clients. All furnishings and equipment shall be kept clean, safe and operable, where applicable.

2. Adequate furniture shall be available and shall be appropriate for use by the clients in terms of comfort and safety.

3. Furnishings shall include tables and chairs sufficient in number to serve all clients.

G. Kitchen

1. A facility that has a kitchen area shall meet all health and sanitation requirements and shall be of sufficient size to accommodate meal preparation for the proposed number of clients.

2. Kitchens used for meal preparations shall have the equipment necessary for the preparation, serving and storage and clean-up of all meals regularly served to all clients and staff. All equipment shall be maintained in proper working order.

3. The facility's refrigerator(s) shall be maintained at a temperature of 45 degrees Fahrenheit or below. Freezers shall be maintained at a temperature of 0 degrees Fahrenheit or below. Thermometers shall be provided for all refrigerators and freezers. The facility shall maintain logs of temperatures of the refrigerator and freezers. Abnormal temperatures shall be reported to management and arrangements made for repair/service. Documentation of such shall be maintained.

4. The facility shall ensure that all dishes, cups and glasses used by clients are free from chips, cracks or other defects and are in sufficient number to accommodate all clients.

5. If food is prepared in a central kitchen and delivered to the facility, provisions shall be made and approved by the Department of Health, Office of Public Health, Sanitarian Services for proper maintenance of food temperatures and a sanitary mode of transportation.

H. Medication Storage and Monitoring

1. The facility shall have policies and procedures for the storage, administration and disposal of both prescription and over-the-counter medications.

2. There shall be a designated secure area for the storage, preparation, and proper disposal of medications.

3. Medications that require refrigeration shall be stored in a separate secured refrigerator (not with food, beverages, etc.).

4. The facility shall have a process for monitoring the inventory and reconciliation of prescribed controlled substances by authorized licensed staff. The process shall include the reporting of lost or missing medications by designated licensed

staff in accordance with the Louisiana State Board of Pharmacy and applicable state law.

5. Medications may be administered from a secured medication dispensing central area of the facility.

I. Laundry

1. The facility shall provide for laundry services, either on-site or at an off-site location that is adequate to meet the needs of the clients.

2. For any provision of laundry service, available on-site or contracted, the facility shall ensure and maintain procedures to prevent cross contamination of soiled laundry with clean laundry.

3. If on-site, laundry facilities shall be located in a specifically designated area and there shall be adequate rooms and spaces for sorting, processing, and storage of soiled material.

4. Laundry rooms shall not open directly into client common areas or food service areas.

5. Domestic washers and dryers that are for the exclusive use of clients may be located in client areas, provided they are installed in such a manner that they do not pose a sanitation problem or safety risk.

J. Water Supply

1. An adequate supply of water, under pressure, shall be provided at all times.

2. Clean sanitary drinking water shall be available and accessible in adequate supply at all times. Disposable cups, if used, shall be stored in such a way as to prevent contamination.

3. When a public water system is available, a connection shall be made thereto. If water from a source other than a public water supply is used, the supply shall meet the requirements set forth under the rules and regulations of the Office of Public Health (OPH).

4. The facility shall have a plan and policy for an alternative water supply in the event of interruption of water supply and for the prolonged loss of water.

K. All sewage shall be disposed of by means of either:

1. a public system where one is accessible within 300 feet; or

2. an approved sewage disposal system that is constructed and operated in conformance with the standards established for such systems by OPH.

L. Facility Exterior

1. The FSTRA shall maintain all areas of the facility that are accessible to the clients in good repair and free from any reasonably foreseeable hazard to health or safety.

2. All structures on the grounds of the facility shall be maintained in operating condition.

3. Garbage and rubbish stored outside shall be secured in noncombustible, covered containers and shall be removed on a regular basis.

4. Fences shall be in good repair and constructed in such a way as to provide safety and security.

5. Areas determined unsafe, including steep grades, open pits, swimming pools, high voltage boosters or high speed roads shall be fenced or have natural barriers to protect clients.

6. Clients shall have access to safe, suitable outdoor recreational space.

7. The facility shall ensure that exterior areas are well lit at night.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:70 (January 2017).

Subchapter I. Secure Community Supervised Transitional/Residential Facility Module

§7279. General Provisions

A. Providers applying for the Secure Community Supervised Transitional/Residential (SCSTR) Facility module under the FSTRA facility license shall meet the core licensing requirement as well as the following module specific requirements.

B. A secure community supervised transitional/residential facility is a secure residential facility within the community that provides individualized services to develop daily living skills and to prepare for vocational adjustment and reentry into the community, to persons who are under a court-ordered forensic conditional release and who are referred by a state forensic hospital or a state forensic psychiatric unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:72 (January 2017).

§7281. Operational Requirements

A. Staff Requirements

1. When clients are present, the facility shall provide 24-hour, 7 day per week supervision and the care and services sufficient to meet the needs of the clients. Staffing shall consist of at least three direct care staff persons during the day, one of which shall be a licensed nurse and at least two awake staff during the night.

a. Requirements for the level of supervision provided and the specified time frame for day hours shall be defined by facility policy and approved by the facility governing body with documented annual review.

2. The facility shall have a licensed nurse on call when there are no licensed nurses on duty at the facility.

B. Admissions. The facility shall:

1. only accept clients referred by LDH state forensic facilities or those who are under a court-ordered forensic conditional release;

2. admit only those clients who have the ability to self-administer medications and provide for their own personal care needs;

3. admit male and female clients to reside in separate segregated and designated units of the licensed facility;

4. not admit more clients into care than the number specified on the facility's license; and

5. provide contact information, including the telephone number and mailing address, for the appropriate state protection and advocacy organization.

NOTE: the facility shall request from the HSS an increase in licensed bed capacity prior to accepting more clients than specified on the facility's license.

C. Assistance with Medication Self-Administration

1. The facility shall have clear written policies and procedures on medication self-administration.

2. The facility shall assist clients in the self-administration of prescriptions and non-prescription medication according to the client's service plan and as allowed by state laws and regulations. For assistance with self-administration, such clients shall have documented awareness of the medications to be taken.

3. Assistance with self-administration of medication shall be limited to the following:

a. the client may be reminded to take his/her medication;

b. the medication regimen, as indicated on the container, may be read to the client;

c. the dosage may be checked according to the container label;

d. staff may open the medicine container (i.e. bottle, mediset, blister pack, etc.) if the client lacks the ability to open the container; and

e. the client may be physically assisted in pouring or otherwise taking medications, so long as the client is cognitive of what the medication is, what it is for, and the need for the medication.

4. An unlicensed employee that provides assistance with the self-administration of medications to a client shall have documented training on the policies and procedures for medication assistance including the limitations of this assistance. Documentation shall include the signature of the employee. This training shall be repeated at least annually.

a. A competency evaluation shall be developed and conducted to ensure that each direct care staff person that assists a client with the self-administration of medications is able to demonstrate

competency in the training areas pursuant to §7281.C.1-4.

b. Documentation of such competency evaluation of each direct care staff person shall be maintained and readily available in the agency's records.

NOTE: Such training does not permit the unlicensed employee to perform medication administration which is separate and apart from the performance of assistance of a client with the self-administration of medications.

5. Medications shall be stored in a secure central location and not stored in the client's own room.

6. The facility may require the clients to come to a designated medication area to take their medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:72 (January 2017).

Subchapter J. Secure Forensic Facility Module

§7285. General Provisions

A. Providers applying for the secure forensic (SF) facility module under the FSTRA facility license shall meet the core licensing requirement as well as the following module specific requirements.

B. A secure forensic facility is a secure residential facility located on the grounds of a state owned or operated hospital that provides individualized services, including personal care services and medication administration, to persons who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit, in order to prepare such persons for transition to a less restrictive environment before transitioning to the community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:72 (January 2017).

§7287. Operational Requirements

A. The facility shall provide 24-hour, seven day per week supervision and the care and services sufficient to meet the needs of the clients. Staffing shall consist of at least three direct care staff persons during the day and two awake staff during the night. There shall be at least two direct care staff persons in each building and/or unit at all times when clients are present.

1. The facility shall have a RN on duty during the day shift to oversee the nursing services of the facility.

a. Requirements for the level of RN supervision provided and the specified time frame for day shift shall be defined by facility policy, approved

by the governing body, reviewed and documented annually.

2. The facility shall have at least one licensed nurse on duty for each shift.

3. The facility shall provide for, either directly or through contract, a licensed medical doctor on call.

B. Admission

1. The facility shall:

a. admit clients who are under a court order or court ordered forensic conditional release and who are referred by a LDH state forensic facility;

b. not admit more clients into care than the number specified on the facility's license; and

c. provide contact information, including the phone number and mailing address, for the appropriate state protection and advocacy organization.

C. Client Services

1. The facility shall provide or coordinate, to the extent needed or desired by clients, the following services:

a. assistance provided by direct care staff, either employed or contracted, with activities of daily living and all instrumental activities of daily living;

b. medication administration by the licensed nurse;

c. opportunities for individual and group socialization;

d. services for clients who have behavior problems requiring ongoing staff support, therapeutic intervention, and supervision to ensure no danger or infringement of the rights of other clients or individuals;

e. household services essential for the health and comfort of clients (e.g. floor cleaning, dusting, bed making, etc.);

f. basic personal laundry services; and

g. a planned program of recreational activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:73 (January 2017).

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